Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications for the Assignment of Licenses from	)	
Denali PCS, LLC to Alaska DigiTel, LLC and	)	WT Docket No. 06-114
the Transfer of Control of Interests in Alaska	)	
DigiTel, LLC to General Communication, Inc.	)	
	)	

COMMENTS OF MTA COMMUNICATIONS, INC. d/b/a MTA WIRELESS ON FILING OF ACS WIRELESS, INC.

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SUMMARY

The ACS Wireless, Inc. ("ACSW") Comments/*Ex Parte* Filing reinforces the conclusion in MTA Wireless' Petition to Deny that the Applicants have failed to demonstrate by a preponderance of evidence that their applications will advance the public interest, and that those applications should, therefore, be denied. ACSW's entry into this proceeding brings fresh insights to the Commission's evaluation of whether the Applicants' proposed transaction will advance or harm the public interest, and a perspective different from, but equally important, to that of MTA Wireless. In the event the Commission agrees to approve the applications, MTA Wireless agrees with ACSW that it should do so only subject to the condition that GCI divest itself of spectrum which MTA Wireless believes should, based on the record established, be at least 35 MHz of PCS spectrum that neither GCI nor Denali has previously employed for the public benefit. MTA Wireless also supports ACSW's request that its outside counsel be granted access to confidential information in this proceeding.

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MTA Communications, Inc., d/b/a MTA Wireless ("MTA Wireless"), files the following comments relative to the Comments/*Ex Parte* Filing and Petition to Intervene (hereinafter, "Filing") of ACS Wireless, Inc. ("ACSW") made in this proceeding on July 21, 2006. These comments will also address the Joint Opposition filed by the Applicants to the acknowledgments of confidentiality submitted by ACSW outside counsel pursuant to the Commission's Protective Orders in this proceeding,[1] and to ACSW's Reply to that Joint Opposition.[2]

1. The ACSW Filing Supports MTA Wireless' Request That the Applications be Designated for Evidentiary Hearing

The ACSW Filing provides strong support for MTA Wireless' argument that the applications present substantial and material questions regarding whether the Applications in this proceeding will support the public interest and the resultant requirement under section 309(e) of the Communications Act of 1934, as amended, that the Commission designate the applications

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1 Joint Opposition to ACS Wireless, Inc.'s Acknowledgments of Confidentiality, July 26, 2006 (hereinafter, "Confidentiality Joint Opposition"). *See* DA 06-1246 and DA 06-1248, released June 9, 2006.

2 ACS Wireless, Inc.'s Reply to Applicants' Joint Opposition to Confidentiality Acknowledgments, July 28, 2006 (hereinafter, "ACSW Reply").

for evidentiary hearing. 47 U.S.C. § 309(e). ACS Wireless, as the second largest wireless provider in the state of Alaska and a direct competitor of GCI Communication, Inc. ("GCI"), Alaska DigiTel, L.L.C. ("DigiTel") and Dobson Cellular Systems, Inc. ("Dobson"),[3] plainly is an interested party to this proceeding. At the same time, its interests are not duplicative of those of MTA Wireless, but are complementary. Whereas, MTA Wireless is concerned with the anticompetitive impact that the Applicants' proposed transaction will have on its ability to grow its wireless business beyond the confines of its present licensed market in the Matanuska Valley through access to additional spectrum and competitively neutral roaming privileges, ACSW competes with the Applicants in all of the state's major CMRS markets through the use of both cellular and PCS spectrum. As a result, ACSW brings a new perspective to the Commission's evaluation of the potential anticompetitive impact which the Applicants' proposed transaction will portend for the Alaska – and particularly the Anchorage -- CMRS market.

The new insights that ACSW's participation in this proceeding will bring to the Commission in its fact-finding role are evident from the contents of the Filing. To begin with, ACSW has demonstrated that the monopoly role of GCI Communication, Inc. ("GCI") in operating redundant undersea transport capacity between Alaska and the continental United States (the "Lower 48") will afford GCI unique competitive power which it will be able to employ to restrict competition for Lower 48 carriers' roaming agreements within Alaska. By tying its offering of these transport services to its provision, through DigiTel's facilities, of roaming arrangements in Alaska, GCI will be able to manipulate access to roaming arrangements in the state.[4]

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3 Declaration of Robert Doucette, dated July 21, 2006 (hereinafter, "Doucette Declaration"), ¶ 2.

4 ACSW Filing, at 10-14.

MTA Wireless can confirm ACSW's identification of the critical nature of undersea cable capacity in providing transport between Alaska and the Lower 48. As a result of latency characteristics in transmission, restricted bandwidth availability and higher costs, satellite services do not represent a viable alternative to the cable fiber optic facilities providing transport between Alaska and the Lower 48.[5] Moreover, in the competition for enterprise customers in particular, redundancy in such transport capacity is a prerequisite to a credible proposal.[6] As explained by ACSW, GCI is the only operator controlling redundant cable transport capacity on this route.

MTA Wireless has explained in its previous filings its perception of a real risk that GCI will be able to use its unparalleled market dominance following the proposed transaction by restricting MTA Wireless' access to roaming arrangements, particularly for data services, which is the direction in which competition in the wireless sector is rapidly moving.[7] ACSW's Filing illuminates a new facet of GCI's ability to control access to roaming in Alaska if it is allowed to consummate the proposed transaction with DigiTel and Denali.[8] Given GCI's stated intention of offering its wireless services as part of a larger, bundled offering, MTA Wireless views with particular gravity the exercise of this market power by GCI as it enters into competition with MTA Wireless in its local exchange service area.

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5 Declaration of Richard Kenshalo, dated August 1, 2006 and attached hereto (hereinafter, "Kenshalo August Declaration"), ¶ 4.

6 *Id.*, ¶ 5.

7 *Id.*, ¶ 6; Declaration of Carolyn Hanson, dated February 15, 2006, ¶¶ 9-10; Declaration of Richard Kenshalo, dated March 13, 2006, ¶¶ 5-7.

8 The Commission has established that the potential adverse impact on subscribers' access to roaming services is an element of its evaluation of the public interest of a proposed merger transaction in the wireless sector. *Application of AT&T Wireless Services, Inc. and Cingular Wireless Corporation*, Memorandum Opinion & Order, FCC 04-255, released October 26, 2004 ("*AT&T/Cingular Order*"), ¶¶ 172-73.

ACSW has also brought to light in its Filing the existence of an arrangement under which Sprintcom is provided use of DigiTel's facilities in order to offer its wireless services to its Alaska customers.[9] The existence of such a relationship, of which MTA Wireless previously had no confirmed evidence, could explain why Sprintcom has refused to respond to repeated efforts by MTA Wireless to discuss access to Sprintcom's licensed spectrum in the Anchorage market.[10] If the arrangement between Sprintcom and DigiTel has either expressly or implicitly limited the terms under which Sprintcom competes in the Alaska market, the relevance of that relationship to the Commission's understanding of the "totality of circumstances" surrounding the Applicants' proposed transaction would be compelling.

As noted by ACSW, by controlling DigiTel, GCI will effectively also gain alignment with Sprintcom as DigiTel's partner, thereby increasing its power in the Alaska market even further.[11] Under such a scenario, the correct calculation of mobile telephony spectrum over which GCI would exercise control, through a combination of ownership, resale and other contractual arrangements, would increase from 115 MHz in Anchorage, as previously demonstrated by MTA Wireless, to 125 MHz. Moreover, the existence and terms of such a relationship could demonstrate that CMRS competition in the Anchorage market could, post-transaction, be reduced to two competitive groupings – ACSW and the combined GCI-DigiTel-Dobson-Sprintcom group. The reduction of effective competition to as few as two meaningful

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9 ACSW Filing, at 6; Doucette Declaration, ¶ 7.

10 Kenshalo August Declaration, ¶¶ 7-8.

11 As MTA Wireless has previously observed, when evaluating the potential anticompetitive impact of a merger in the wireless sector, the Commission considers not only the affect of direct consolidation of spectrum and elimination of competitors, but also of the "coordinated interaction" of the remaining participants in the market. *AT&T/Cingular Order*, ¶¶ 150-51; *In the Matter of Applications of Western Wireless Corporation and Alltel Corporation*, Memorandum Opinion & Order, FCC 05-138, released July 19, 2005 (hereinafter, "*Western Wireless/Alltel Order*"), ¶¶ 52-53.

players has traditionally been viewed by the Commission as indicative of an anticompetitive *result.*[12]

For these reasons, MTA Wireless joins in ACSW's request that the Commission request that DigiTel and GCI produce into the record any agreements that they have with Sprintcom concerning the use by Sprintcom of DigiTel's facilities in Alaska and any other cooperative arrangements between or among the parties for the provision of wireless services to subscribers.

2. ACSW's Counsel Should be Provided Access to Confidential Information in this Proceeding

Applicants GCI, DigiTel and Denali have jointly opposed the acknowledgments of confidentiality executed by outside counsel for ACSW in order to gain access to confidential information submitted into the record by the Applicants and the Commission staff. The stated basis for Applicants' position is that, as an interested party, ACSW was limited by the Commission's rules to filing a petition to deny by February 15, 2006. Having chosen not to do so, it is now barred from participating in any capacity in this proceeding.[13]

MTA Wireless finds the Applicants' position to be entirely out of order, given the Commission's rulings establishing the docket in this proceeding. Moreover, it is clear that the Applicants' true motivation in opposing what is obviously a proper application for access to confidential materials under the terms of the Commission's Protective Orders is to restrict the scope of the Commission's review of what has been shown to be a highly suspect effort by GCI to gain competitive dominance in the Anchorage (and even Alaska-wide) CMRS market.

Notwithstanding that the Applicants filed their applications in this matter in January 2006, the Commission did not open a docket, subject to permit-but-disclose *ex parte* procedures,

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12 *AT&T/Cingular Order*, ¶ 191; *Western Wireless/Alltel Order*, ¶ 120.

13 Confidentiality Joint Opposition, at 2-3.

until June 9, 2006.[14] Simultaneously with doing so, it requested the Applicants to respond to a series of document and data requests that it considered relevant to its disposition of the applications,[15] and issued two Protective Orders establishing procedures for the Applicants to submit copies of documents for which they claim confidentiality in both confidential and redacted form. These Protective Orders also established procedures for outside counsel of "parties" to gain access to the confidential versions of such documentation, the procedure that counsel for ACSW is now pursuing. In issuing these letters, public notices and Protective Orders approximately seven weeks ago, the Commission clearly indicated that it did not consider its evaluation of the applications to be at an end, but instead at a stage that, as a result of the evidence provided in MTA Wireless' Petition to Deny and subsequent filings, required more detailed analysis.

Moreover, as correctly argued in the ACSW Reply, in its public notices and the two Protective Orders issued on June 9, the Commission was careful not to limit *ex parte* presentations in this docket, nor potential access to confidential documents, to the Applicants and MTA Wireless alone.[16] Instead, it established procedures for "parties" to follow. Section 1.1202(d)(1) of the Commission's rules defines the term "parties" broadly to include any persons that "file written submissions referencing and regarding" pending applications. 47 C.F.R. § 1.1202(d)(1). Moreover, the Commission established no deadline in its public notices of June 9, 2006 for the filing of *ex parte* presentations by any interested party.

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14 DA 06-1247.

15 *See* letter from James D. Schlichting, Deputy Chief, Wireless Telecommunications Bureau, to Thomas Gutierrez and Carl Northrop, dated June 9, 2006.

16 ACSW Reply, at 2-3.

The Applicants submitted answers to the Commission's data requests and redacted copies of requested documents into the public record in this docket on June 23, 2006.[17] Approximately three weeks later, counsel for MTA Wireless requested the Applicants to supplement the record with two additional documents and an additional data item. Although counsel for the Applicants initially objected to the timeliness of this request, the Applicants agreed to submit the additional information on the condition that MTA Wireless would file its supplementary comments addressing the documents and data put into the record no later than July 24. This deadline was complied with. Counsel for MTA Wireless in no manner, however, suggested when entering into that agreement that the supplementary comments would be MTA Wireless' final filing in this matter. There was no way that such an undertaking could have been given, since neither counsel nor his client could know what further directives the Commission would issue, nor what action either the Applicants or interested third parties might take. Counsel for MTA Wireless has no authority to attempt to limit the involvement of any legitimately interested third parties in this proceeding, and at no time did the undersigned in any manner purport to play such a role, as it appears the Applicants would like the Commission to believe.[18]

In any case, following the agreement reached by counsel on the filing date for MTA Wireless' supplementary comments, Commission staff advised counsel for MTA Wireless that Numbering Resource Utilization and Forecast ("NRUF") reports and carrier-specific local

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17 Notably, the documentation produced at that time revealed that the Applicants had not finalized the terms of their Reorganization Agreement embodying the terms of their proposed transaction until June 16, 2006, almost five months *after* their initial filing of the applications in this proceeding, and a week *after* the Commission ordered the creation of a documentary record relating to the transaction. If the Applicants are truly concerned with the expediency at which this proceeding is being handled, it would seem only fair to look to June 16, 2006, rather than January 27, 2006, as the proceeding's starting date. Viewed in this light, the record in this case has been developed with impressive alacrity.

18 Confidentiality Joint Opposition, at 3.

number portability data had been submitted into the record under confidentiality. This indicated that the Commission's staff was, at that stage, still developing the record in this proceeding, a matter that understandably takes time, particularly when confidential information is involved.

Prior to the due date for MTA Wireless' supplementary comments to be filed, ACSW submitted its Filing. This Filing was clearly timely in the context of the actions taken by the Applicants, the Commission staff and MTA Wireless in developing the record in this proceeding. It is, therefore, hard to imagine any basis on which the Applicants can be heard to complain that ACS Wireless acted in a dilatory manner. Moreover, as has been stated in Section 1 of these Comments above, ACSW is not only a legitimately interested party with regard to the transaction proposed by the Applicants, but it is adding to the record in this proceeding for the benefit of the Commission new perspectives on the ramifications of the market-dominating structure that the Applicants seek to put in place. It, therefore, would be a travesty to deny outside counsel for ACSW the right to have access to confidential information that has been put into the record, depriving them of the ability to evaluate such information fully and comment on its meaningfully.

In addition, again as properly observed in the ACSW Reply, the Commission routinely utilizes protective orders of the nature issued in this proceeding to provide *commenting* parties with the opportunity to understand the data and documentation affecting the evaluation of merger agreements or other proceedings, such as forbearance requests, which are conducted on a permit-but-disclose basis.[19] The use of such protective orders is not restricted to persons with formal "party" status in evidentiary proceedings. Indeed, in the *Qwest Omaha Forbearance*

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19 *See* ACSW Reply, at 3-4, including accompanying notes.

Proceeding,[20] GCI submitted an acknowledgment of confidentiality in order to gain access to confidential information put into the record by the petitioner and opposing parties even though it was not a commenting party in the proceeding. In that case, GCI engaged in *ex parte* presentations regarding the merits of Qwest's petition some *15 months after the petition was filed and after the formal comment cycle in the proceeding had been concluded*, all in apparent disregard as to whether and for how long the disposition of the proceeding would be delayed as a result of this belated expression of interest.[21] In that case, outside counsel for GCI did not file their requests for access to confidential information until *18 months after the petition for forbearance had been filed.*[22]

Given this track record, at least GCI's complaint that ACSW is misusing the protective order procedure in this proceeding and is unduly delaying the Commission's disposition of the applications is not only groundless, but is disingenuous. The Commission has a right to control its own docket in license assignment and transfer of control proceedings with important market competition implications. Here, it established the framework for the proper development of a record in its public notices, Protective Orders and request for data production issued on June 9, 2006. ACSW has responded with due diligence in preparing its *ex parte* filing. Moreover, ACSW has clearly demonstrated its interest in the outcome of this proceeding and its ability to

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20 *In the Matter of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223.

21 *See* letter from Tina M. Pidgeon, Vice-President, Federal Regulatory Affairs, GCI, to Marlene H. Dortch, September 13, 2005, WC Docket No. 04-223.

22 *See* letter from John T. Nakahata, counsel for GCI, to Marlene H. Dortch, December 16, 2005, WC Docket No. 04-223.

contribute to a robust and meaningful record in its Filing. The Commission should, therefore, grant outside counsel for ACSW access to confidential information in this proceeding.[23]

3. ACSW's Request for Conditions

ACSW has proposed, as an alternative to the Commission denying the applications, that it grant them subject to conditions. MTA Wireless remains of the view that the adverse consequences to the public interest of the proposed transaction far outweigh any potential benefit,[24] and that the applications should be denied as a result of the Applicants having failed to demonstrate, by a preponderance of the evidence, that the public interest will be served.[25]

In the event that the Commission does elect to grant the applications, however, MTA Wireless agrees with ACSW that approval should be conditioned in a manner that prevents GCI from amassing an overwhelming proportion of mobile telephony spectrum in the Anchorage market.[26] It would appear that the most direct way to accomplish this goal is to require GCI to divest spectrum that it has not used and would continue to warehouse after consummation of the transaction. The record evidences that the only spectrum that GCI really requires, or intends to utilize in deploying its own branded service, is that utilized by DigiTel in providing its facilities-based service, together with its resale of Dobson services.

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23 In the event the Commission orders, as MTA Wireless has requested, the holding of an evidentiary proceeding in this matter, MTA Wireless will support ACSW's petition for intervention, as well, for the reasons stated above.

24 MTA Wireless concurs with ACSW that the only potential benefit of the transaction the Applicants can point to is the infusion of financial support that DigiTel will receive from its new owner. However, since the evidence in the record demonstrates that DigiTel will not emerge as a strengthened independent competitor, but instead will at best be a stronger component of a combined GCI/DigiTel enterprise, the very public good that GCI purports to espouse is in reality a detriment. *See* ACSW Reply, at 15.

25 Importantly, ACSW also advocates as the optimal solution in this proceeding that the applications be denied. ACSW Reply, at 15.

26 Divestiture of spectrum is often employed by the Commission as a condition of approving mergers between licensees in order to address anticompetitive or other legal concerns. *See AT&T Cingular Order*, ¶¶ 258-63; *Western Wireless/Alltel Order*, ¶¶ 162-69.

The record demonstrates that, since award of the Alaska MTA-wide PCS licenses in the mid-1990s, DigiTel did not deploy services to end users on the 15 MHz of its PCS license that it transferred to Denali and is now seeking to reclaim. Similarly, GCI has not deployed service on its own 30 MHz license, although it has disclosed that it has provided access to 10 MHz of this capacity on a resale basis to Dobson.[27] Accordingly, it would be reasonable for the Commission to require GCI, as a condition of approving the proposed transaction, to divest itself of the 15 MHz of PCS capacity previously leased to Denali (which the Applicants plan to re-merge with the 15 MHz of capacity employed by DigiTel) and of GCI's own unused 20 MHz of statewide PCS spectrum that it has not leased to Dobson or any other party. In this manner, small competitors like MTA Wireless would have an opportunity to compete for the spectrum on reasonable market terms. Such a solution would go far to address both MTA Wireless' direct need for spectrum and its companion struggle to secure meaningful statewide roaming rights, particularly for data services.

MTA Wireless also believes that ACSW has made a convincing case for the Commission to revisit the terms of its original grant of authority to GCI to operate its undersea cable transport capacity on a non-common carrier basis. By subjecting GCI to common carrier regulation on its redundant transport capacity, the Commission would mitigate GCI's ability to link its market power over transport routes connecting Alaska and the Lower 48 with its control over facilities-based roaming arrangements. In its original order approving GCI's non-common carrier operation of its first undersea cable,[28] the Commission imposed as a condition a requirement that

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27 Joint Opposition of Applicants, March 1, 2006, at 10.

28 *In the Matter of General Communication, Inc. Application for a License to Land and Operate in the United States a Digital Submarine Cable System Extending Between the Pacific Northwest United States and Alaska*, Cable Landing License, DA 97-2357, released November 7, 1997, ¶¶ 33, 38.

GCI maintain "complete records including the percentage of circuits conveyed on the cable, to whom capacity is sold and on what terms and conditions." This record-keeping requirement was viewed by the Commission as a tool for monitoring the potential of anticompetitive activity on the Alaska transport line, and to enable the Commission to act swiftly to change the regulatory status of the cable to a common carrier one. MTA Wireless submits that evidence has been offered in this proceeding that the Commission's concerns with GCI's potential ability to use its transport facilities in an anticompetitive manner have now matured into reality, and that the reclassification of GCI's operations on its transport facilities should therefore be considered as part of this proceeding.

Conclusion

ACSW in its Filing has added fresh insights for the benefit of the Commission in its evaluation of how the "totality of circumstances" surrounding the Applicants' proposed transaction will impact the public interest. The arguments presented by ACSW reinforce the conclusion in the Petition to Deny that the Applicants have failed to demonstrate by a preponderance of evidence that their applications will advance the public interest, and that those applications should, therefore, be denied. In the event the Commission agrees to approve the applications, it should do so only subject to the condition that GCI divest itself of at least 35

MHz of PCS spectrum that it has not previously employed for the public benefit. Finally, *outside counsel for ACSW should be granted access to confidential information in this* proceeding.

Respectfully submitted

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August 1, 2006

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DECLARATION OF RICHARD KENSHALO

I, Richard Kenshalo, with offices located at 1740 S. Chugach Street, Palmer, Alaska 99645, do hereby state and declare as follows:

1. As stated in my previous declaration in this proceeding, I am the Director, Planning and Business Development, of Matanuska Telephone Association, Inc. ("Matanuska Telephone"). MTA Wireless is a wholly owned subsidiary of Matanuska Telephone, a rural cooperative local exchange provider.

2. In the provision of special access, data services, Internet, long distance and wireless services to end users in the Alaska market, access to transport services linking Alaska to the markets in the continental United States plays a critical role. Due to Alaska's geographic isolation, the existing fiber optic transport to the continental United States provides the overwhelming majority of telecommunications connectivity needed to support these essential services for Alaska. This is especially true for data and Internet applications, since the major peering points for these services are in the continental United States and not Alaska. Of the three undersea fiber optic cables linking Alaska to the continental United States, two are owned and controlled by General Communications, Inc.("GCI").

3. For practical purposes, it is economically impossible to replicate the redundant fiber optic capacity that is owned by GCI. Collectively, the cost of building and maintaining a competing redundant fiber optic network from Alaska to the Lower 48 would likely exceed $100 million dollars.

4. Due to latency in transmission capabilities, limited bandwidth availability and higher costs, satellite services do not provide a satisfactory alternative to support the transport needs of advanced services in today's communications industry. It has been well established in the telecommunications industry that fiber optic transport communications are superior to satellite and other means of communications transport. Customers in turn prefer fiber optic transport if it is available. No carrier in the Alaska marketplace can reasonably compete for customers using satellite service as the primary transport vehicle, if the major competitor for those customers is able to offer its services using redundant fiber optic capacity.

5. In servicing the carrier and enterprise sector in particular, it is vital for an operator in Alaska to be able to demonstrate that it has access to redundant transport capacity to the continental United States. This is due to carriers and enterprise customers requiring a high level of reliability for their transport needs that can only be guaranteed through the provision of redundant telecommunications capacity, which will allow service to be restored in the event of a major network outage. The sole carrier in complete control of such redundant fiber optic facilities to and from Alaska today is GCI.

6. The risk of anticompetitive use of this controlling position by GCI identified in relation to the roaming market in Alaska in Mr. Robert Doucette's declaration in this proceeding on behalf of ACS Wireless is of particular concern to MTA Wireless. Our company has already encountered serious difficulty in securing roaming agreements throughout Alaska and the continental United States, particularly for data services which represent the current growth area in the wireless sector. The analysis provided by Mr. Doucette indicates that GCI will be able to use its market power not only to withhold roaming privileges from MTA Wireless directly, but to secure terms with other wireless carriers employing its transport facilities to do the same.

7. During the past several years, MTA Wireless has attempted to approach Sprintcom on several occasions to discuss contractual terms for access to its PCS spectrum, both in the Anchorage market and in other BTAs in the state. Such access would enable MTA Wireless to expand its service offerings for the benefit of its end users beyond the geographic confines of its current, disaggregated cellular license covering the Matanuska Valley. Access to PCS spectrum would assist MTA Wireless in the provision of advanced services for the benefit of its customers. It would also help obviate MTA Wireless' need for roaming arrangements for data services, the lack of which represent a material competitive disadvantage and threaten its ability to maintain its customer base and grow as a competitor in Alaska.

8. On each of the occasions when MTA Wireless attempted to open discussions with Sprintcom, such initiatives went unanswered. MTA Wireless never received any responsive indication that Sprintcom was interested in discussing a strategic or cooperative relationship with MTA Wireless in Alaska.

Under penalty of perjury, the foregoing is a true and accurate statement, to the *best of my information, knowledge and belief.*

Aug 1, 2006
Date

Richard Kenshalo

CERTIFICATE OF SERVICE

I, Joyce R. Dozier, hereby certify that copies of the foregoing Comments of MTA *Communications, Inc. d/b/a MTA Wireless on Filing of ACS Wireless, Inc.* and the attached Declaration of Richard Kenshalo were served electronically and by U.S. mail, postage prepaid, on the 2nd day of August, 2006, on:

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